



Rule Up For Discussion and Possible Filing

Proposed Amendments to

WAC 230-20-059

Minimum cash flow requirements for bingo games--Contributions to stated purpose -- Sanctions.

ITEM 14 (a) on the April 11, 2003, Commission Meeting Agenda.

Statutory Authority 9.46.070

Who proposed the rule change?

Mr. Frank Miller, attorney, on behalf of the Washington Charitable and Civic Gaming Association.

Why is this rule change needed?

We have received a Petition for Rule Change from Mr. Frank Miller, attorney, on behalf of the Washington Charitable and Civic Gaming Association. The Petitioner is requesting that a licensee be given a waiver, rather than a variance, from the cash flow requirements for four quarters if one of four criteria are met, one of which is that the measurement period simply include the third or fourth quarter of 2002. If, after one year, the licensee is within ten percent of the adjusted cash flow requirements, they could apply for a variance of six more months. The Petitioner is also asking that the responsibility for reviewing the waiver petitions be transferred from the Commission to either the Director or an Administrative Law Judge (ALJ).

Staff does not support the petitioner's request for several reasons:

- 1) One of the goals when the cash flow rules were first passed was to streamline the process. The Petition adds extra steps to the process, making it even more complicated. The petition looks at reasons a licensee may be out of compliance, but does not address how a licensee will get back into compliance, defeating the adjusted cash flow requirements completely.
- 2) Given the waiver process and variance process, the licensee could be out of compliance for three years or more, an extensive period of time.
- 3) This could increase the number of times the Commission hears the case, resulting in up to six hearings total (three before the Director/ALJ and three appeals to the Commission). First, the Director or ALJ would hear the request for the waiver, which could then be appealed to the Commission. Second, a year later, the Director would hear the request for a six-month variance, which could then be appealed to the Commission. Third, the ALJ would hear the revocation case, which could be appealed to the Commission.
- 4) The standards set forth in subsection (5)(a)-(c) are not clear and articulable and would provide further room for debate.

Attached:

Petition for Rule Change;

Letter from Mr. Miller dated March 26, 2003; and

Proposed amendment to WAC 230-20-059.

Statements against the proposed rule change.

None at this time.

Which licensees will be directly impacted?

Bingo operators.

What are the potential impacts to the agency?

The agency would incur significant hearing costs, investigative and audit costs, and additional Commission time and costs.

Staff recommendation.

Deny the Petition.

